

Message Text

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SUBJECT: LEGAL REPRESENTATION AVAILABLE TO AMERICANS ARRESTED ABROAD

REF: STATE 147704

1. RESPONSES TO THE QUESTIONS POSED IN REFTEL ARE AS
FOLLOWS:

A. (1) THER IS NO PUBLIC DEFENDER OR LEGAL AID
SOCIETY IN ISRAEL IN CONNECTION WITH CRIMINAL CASES. THE
CRIMINAL PROCEDURE ACT OF 1965 (SECTION 13) STATES
THAT A CRIMINAL DEFENDANT, WHO SO REQUESTS, MUST BE
PROVIDED A COURT APPOINTED DEFENSE ATTORNEY IN ANY OF
THE FOLLOWING THREE SITUATIONS:
A. HE IA CHARGED WITH MURDER OR ANY OTHER CRIME FOR
WHICH THE MAXIMUM SENTENCE IS TEN YEARS' IMPRISONMENT
OR MORE; OR
B. DEFENDANT IS LESS THAT 16 YEARS OLD AND IS BEING
CHARGED IN THE REGULAR COURT RATHER THAN IN THE JUVENILE
COURT; OR
C. DEFENDANT IS EITHER DEAF, DUMB OR BLIND.
IN EACH OF THE ABOVE SITUATIONS, THE COURT IS REQUIRED
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TO APPOINT COUNSEL FOR THE DEFENDANT WITHOUT CHARGE AND
WITHOUT REGARD TO THE DEFENDANT'S FINANCIAL CIRCUMSTANCES.
(2) IN ADDITION, THE LAW ALSO GRANTS THE ISRAELI COURTS
DISCRETIONAL AUTHORITY IN OTHER CRIMINAL CASES TO APPOINT
A DEFENSE COUNSEL GRATIS, IF DEFENDANT IS WITHOUT FUNDS
OR IS SUSPECTED OF BEING MENTALLY UNBALANCED. IN THE
FORMER CASE, THE COURT WILL USUALLY REQUIRE PROOF THAT

THE DEFENDANT IS UNABLE TO RETAIN A PRIVATE ATTORNEY DUE TO INDIGENCE. USUALLY HE IS REQUIRED TO PROVE CONFIRMATION OF SAME FROM HIS SOCIAL WORKER. HENCE, IF DEFENDANT IS NOT ON WELFARE OR IS A TOURIST, HE WILL HAVE DIFFICULTY ESTABLISHING ELIGIBILITY AS AN INDIGENT.

(3) IN NONE OF THE FOREGOING CASES IS ANY DISTINCTION MADE BETWEEN ISRAELI CITIZENS AND FOREIGN NATIONALS. HOWEVER, A FOREIGNER IN ISRAEL (TOURIST OR TEMPORARY RESIDENT) WILL FIND IT MORE DIFFICULT TO QUALIFY FOR FREE LEGAL COUNSEL AS AN INDIGENT DUE TO THE DIFFICULTY OF FURNISHING PROOF. FURTHERMORE, THERE IS A STRONG PRESUMPTION THAT IF A FOREIGNER IS ENOUGH MONEY TO VISIT ISRAEL, HE SHOULD BE ABLE TO FUND HIS LEGAL NEEDS.

B. THE LEGAL REPRESENTATIVE MAY BE APPOINTED EVEN AT THE BAIL HEARING STAGE PRIOR TO FILING A FORMAL INDICTMENT AND TRIAL. COUNSEL IS USUALLY AVAILABLE AS SOON AS THE JUDGE MAKES THE APPOINTMENT. THE ATTORNEY IS SELECTED FROM A PANEL OF ISRAELI LAWYERS WHO HAVE REQUESTED THEIR LISTING THEREON.

C. (1) THE MORE SKILLFUL AND EXPERIENCED CRIMINAL LAWYERS ARE USUALLY NOT LISTED IN THE ABOVE PANEL. THE LIST DOES INCLUDE A FEW ABLE AND PUBLIC SPIRITED CRIMINAL LAWYERS BUT MOST ARE YOUNG AND INEXPERIENCED, INTERESTED IN GAINING TRIAL EXPERIENCE RATHER THAN THE RELATIVELY SMALL FEES PAID FOR THESE SERVICES BY THE STATE. IN GENERAL, THE QUALITY OF PUBLIC-FUNDED LEGAL ASSISTANCE

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IN INFERIOR TO PRIVATE COUNSEL.

(2) IN EXTREMELY SERIOUS OR NOTORIOUS CASES, SUCH AS THE TEL AVIV AIRPORT MASSACRE INVOLVING JAPANESE TERRORISTS AND THE ARSON OF THE AL AKSO MOSQUE BY AN AUSTRALIAN TOURIST, THE COURTS HAVE APPOINTED DISTINGUISHED MEMBERS OF THE ISRAELI BAR AS DEFENSE COUNSELS DESPITE THEIR NOT BEING MEMBERS OF THE PANEL.

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